

RECEIPT # 59735  
AMOUNT \$ 150  
SUMMONS ISSUED 7-7  
LOCAL RULE 4.1 \_\_\_\_\_  
WAIVER FORM \_\_\_\_\_  
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BY DPTY. CLK. 12  
DATE 11-1-04

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
EASTERN DIVISION

FILED  
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CIVIL ACTION DOCKET NO. **04 CV 12316 WGY**

KEVIN P. LOUGHMAN,  
A Citizen of the Commonwealth of Massachusetts,  
Plaintiff

MAGISTRATE JUDGE *Alfonso*

vs.

MAURA MAHONEY,  
A Citizen of the State of Florida  
In Her Capacity as  
Security Services Manager,  
Lotus Development Corporation  
and

MAURA FEELEY,  
A Citizen of the Commonwealth of Massachusetts  
In Her Capacity as  
Assistant District Manager,  
First Security Services Corporation  
and

LOTUS DEVELOPMENT CORPORATION,  
A SUBSIDIARY OF IBM CORPORATION,  
Armonk & White Plains, New York  
and

FIRST SECURITY SERVICES CORPORATION,  
A SUBSIDIARY OF PINKERTON'S/U. S. A., Inc.,  
Westlake Village, California

Defendants

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COMPLAINT

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By and For the Plaintiff, Pro-Se  
Kevin P. Loughman

4 Marrigan St., Arlington, Massachusetts, 02474  
Telephone: 781-641-2756

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**COMPLAINT**

**INTRODUCTION**

- 1) This is a Civil Action by The Plaintiff for the torts of defamation and ***slander per se***, by spoken word concerning him, communicated to a third party, by Ms. Maura Mahoney, in her official capacity as a Security Services Manager for the Lotus Development Corporation.
- 2) This is also a Civil Action for the torts of defamation and ***libel per se***, arising from the written re-publication of Ms. Mahoney's spoken slander, by Ms. Maura Feeley, in her official capacity as Assistant District Manager for the First Security Services Corporation.
- 3) The Plaintiff seeks general damages for personal humiliation, embarrassment, injury to his professional reputation, mental anguish, and anxiety. In addition, The Plaintiff seeks to be compensated for measurable economic loss from

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his consequential, wrongful, and pretext-based termination by FSSC on November 25, 1998, and for reasonable costs and fees, related to the prosecution of this Complaint.

#### **THE PARTIES**

4) Kevin P. Loughman (hereinafter identified as "the Plaintiff") resides at 4 Marrigan Street, in the Town of Arlington, in the County of Middlesex, in the Commonwealth of Massachusetts. He is a dual citizen of the United States and also of the Republic of Ireland.

5) Defendant #1, Maura Mahoney (hereinafter identified as "Ms. Mahoney") resides, on information provided, at 7410 Lake Breeze Drive, in the City of Ft. Myers, in the County of Lee, in the State of Florida. Ms. Mahoney is believed to be a citizen of the United States. She has been identified as the originating source of a false, malicious, and slanderous statement, concerning Plaintiff, conveyed by speech to a third party.

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6) Defendant #2, Maura Feeley (hereinafter identified as "Ms. Feeley") resides, on information provided, at 1 New St., in the Village of Turner's Falls, in the Town of Montague, in the County of Franklin, in the Commonwealth of Massachusetts; and is also believed to be a citizen of the United States. Ms. Feeley recklessly, and without regard to its falsity, re-published the false, malicious, and slanderous spoken comment of Ms. Mahoney concerning the Plaintiff, in abuse of the conditional privilege ordinarily accorded to an employer; and in doing so, further defamed the good name and reputation of the Plaintiff.

7) Defendant #3, the Lotus Development Corp., (hereinafter identified as "LDC") is believed to be a wholly owned subsidiary of the International Business Machines Corp., also known as "IBM". IBM, is based in Armonk and White Plains, both in the County of Westchester, in the State of New York, and is also believed to be incorporated in New York State. Lotus Development, LDC, is based

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at 1 Rogers Street, in the City of Cambridge, in the County of Middlesex, in the Commonwealth of Massachusetts. When Defendant #1, Ms. Mahoney verbally defamed the good name and reputation of the Plaintiff, she was in the employment of, and also acting as an agent for, Defendant #3 LDC, in Cambridge, Massachusetts. Accordingly, LDC is joined, as a defendant/joint tortfeasor, under the legal doctrine of "**respondeat superior**".

8) Defendant #4, First Security Services Corporation (hereinafter identified as "FSSC") is believed to be a wholly owned subsidiary of Pinkerton's/U. S. A., which firm is based in Westlake Village, in the County of Los Angeles, in the State of California; and is believed to be incorporated in California. FSSC is based at #1 Harborside Dr., in the City of Boston, in the County of Suffolk, in the Commonwealth of Massachusetts. When the Defendant #2, Ms. Feeley published the slanderous statement of Defendant

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#1, Ms. Mahoney, thereby committing ***libel per se*** against the Plaintiff, she was in the employment of, and acting as an agent for, Defendant #4, FSSC. FSSC is, accordingly, also joined as a defendant and joint tortfeasor under the legal doctrine of "***respondeat superior***".

#### **JURISDICTION**

9) This Court has jurisdiction over this Civil Action, pursuant to 28 U. S. C. § 1332, as the parties are of diverse citizenship; and since general damages under litigation exceed seventy-five thousand dollars, (\$75,000.00).

#### **BACKGROUND FACTS**

10) From June of 1994 until November 25th, 1998 the Plaintiff was employed as a security guard, by FSSC, and was assigned to the LDC Client Account, until July 2, 1998, when, he was summarily transferred to other security service clients.

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11) The Plaintiff's on-the-job performance was reported to be of a high caliber by multiple FSSC Account Managers at Lotus Development, and the Plaintiff received highly positive performance evaluations in 1995, 1996, 1997, and 1998.

12) In August of 1997, the Plaintiff responded favorably to multiple requests from FSSC Account Managers and he agreed to accept promotion to a newly-created position. He then became **Weekend Morning Shift Supervisor** at the LDC Account and he also then began to supervise a personnel staff of six officers, providing security services to the four-building LDC Headquarters in Cambridge.

13) In February of 1998, the then incumbent LDC Account Manager of FSSC, Steve Walsh, a seasoned, twenty-year veteran of FSSC, completed a review of Plaintiff's on-the-job performance, after his first six months in the position of **Weekend Morning Shift Supervisor**.

Of 25 so-called "evaluation factors", Plaintiff received ratings of "satisfactory" on four items and "above expectation" on twenty-one items. Mr. Walsh's comments with respect to the Plaintiff's bearing as an evaluation factor was as follows: "Extent to which employee was courteous, polite, and pleasant in all people contacts"? Response: "Very professional. Represents all of us in a positive way. Good interpersonal skills". A copy of this performance evaluation by the FSSC-LDC Account Manager, Steve Walsh, will be introduced into evidence at the appropriate time.

14) At the beginning of May, 1998, in response to multiple requests from John Ashley, the successor to Steve Walsh as LDC Account Manager, the Plaintiff agreed to double his hours from sixteen per week to thirty-two, and agreed to work two weekday shifts, from 15:00 to 23:00 hours, in addition to his weekend shifts.



15) Sometime in the spring of 1998, an officer whose name is Barbara Nicholas, was assigned to the LDC Account, and in accordance with FSSC's scheduling policies, Ms. Nicholas was required to work a Sundays shift, from 07:00 to 15:00 hours, thus bringing her under the supervision of the Plaintiff for that particular shift.

16) Ms. Nicholas, on information and belief, is the step-daughter of a Mr. Alonnzo Herring, who, in 1998, was the FSSC District Personnel Officer for the District which included the LDC Account.

17) During her tenure at the LDC Account, Ms. Nicholas, on information and belief, received numerous verbal and/or written notices for sub-standard task performance; for violation of FSSC and LDC policies and procedures; and for observed incidents of discourtesy or unpleasantness in her inter-personal contacts, including those with her

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security officer peers and with some of her week-day shift supervisors, excluding the Plaintiff.

18) On May 24th, 1998, the Plaintiff, in his capacity as ***Weekend Morning Shift Supervisor***, and taking account of several computer generated print-outs of the comparative performance of all security officers [related to both elapsed time and to the imputed thoroughness of LDC building tours], issued remedial orders to Ms. Nicholas as well as to other security officers; designed to reduce excessive speed of some building tours, and to increase the thoroughness of building tours, by causing guards to visit all prescribed security check points within the four-building LDC complex in Cambridge. On information from LDC computer-generated security records and on recollection, Ms. Nicholas' security inspections were completed in close to half of the average time of all other security guards, and with the number of required, but omitted check points, about four times greater than the average.

19) Around 13:00 hours on May 24, 1998, the Plaintiff learned that Ms. Nicholas had declined to follow his earlier, remedial orders for the proper conduct of her morning building tour. These legitimate orders were routinely given, in clear and very precise English. They were also conveyed in a firm, polite, and business-like manner. These valid orders were conveyed as orders, and not as optional requests.

20) Following FFSC guidelines for security officer discipline, the Plaintiff "wrote up" a prescribed report of Ms. Nicholas's insubordination, and ordered that she should read the document, and sign the document to acknowledge having read it. Ms. Nicholas was also counseled to offer her specific comments, perspectives, observations, explanations, and points-of-view about the original orders of the morning, and also concerning the write-up or incident report to FSSC Management, prepared

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by the Plaintiff, according to FSSC standard operating procedures for officer discipline.

21) Ms. Nicholas refused to read the document. She refused, consequently, to sign it. Instead, she launched into a verbal tirade, regarding what she called "tone-of-voice" and subsequently sent an e-mail message, reflecting her dissatisfaction with the events of the day, and with Plaintiff's competence as a security guard and supervisor.

22) These incidents, both the insubordination of the morning, and the on-going insubordination and the personalized abuse of the afternoon, were promptly reported in writing to the FSSC-LDC Account Manager at that time, whose name was John Ashley. Mr. Ashley is now deceased.

23) The Plaintiff's emotional frame of mind on May 24, 1998 may be described as subdued and also **"sorrowful or grieving."** The Plaintiff's father

had passed away during the previous week, and had been buried less than forty-eight hours prior to the start of these "Barbara Nicholas Incidents" on May 24, 1998.

24) From May 24th, 1998 onward, an uncontrolled and very hostile working environment developed, owing to Ms. Nicholas' frequent obstruction, non-cooperation, refusal to follow valid orders; as well as her crude, personally abusive epithets, and her frequent threats of impending termination to the Plaintiff; ostensibly based on her kinship with the FSSC District Personal Manager, Alonzo Herring.

25) Additional incidents occurred on May 31st, June 7th, June 14th, and in fact on every single Sunday shift, where Ms. Nicholas and Plaintiff were jointly assigned by FSSC management.

26) Following the incidents of June 7th, 1998, where the Plaintiff was cruelly abused by Ms. Nicholas with the epithets of "fat old pig" and "motherfucker", at a time when he was still in mourning for the recent death of his father, the Plaintiff spoke by telephone with the District Personnel Manager, Mr. Alonzo Herring, and also sent a written notice to the FSSC Lotus Account Manager, John Ashley, reporting his perception of abuse by Ms. Nicholas, believed to be a violation of civil rights statutes, based on the age-based epithets by Ms. Nicholas, and the failure of FSSC Managers, including Mr. Herring and Mr. Ashley, timely to investigate and take remedial action.

27) As a result of Plaintiff's whistle-blowing against abusive activities of the step-daughter of Alonzo Herring [the FSSC District Personnel Manager], the Plaintiff, on July 2nd, 1998, was summarily demoted from his position of **Weekend Morning Shift Supervisor**, to the rank of a non-

supervisory security officer; and was also transferred to other FSSC client accounts, where he was then repeatedly exposed to chlorinated fumes from a swimming pool at one location, as well as to multiple toxic, noxious, and/or allergenic fumes, vapors, mists, and airborne irritants from uncured paints, wood finishing chemicals, stains, varnishes, epoxy, resins, asphalt, adhesives, sealers, and other chemicals, such as latex, at the second location, a building in the process of construction, without certificate of occupancy.

28) The Plaintiff was warned, by Defendant #2, Ms. Feeley, in a face-to-face conference on July 2, 1998 not to question his demotion/transfer, under penalty of termination; nor to have any further contact with his immediate, and now past, Supervising Manager, John Ashley.

29) As a result of the sustained, month-long hostile work environment; the non-response of FSSC Account Management to Plaintiff's written

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complaints, warnings, advisories, and notices; the continuing physical juxtaposition of Barbara Nicholas and the Plaintiff on Sunday shifts; the continuing obstruction, non-cooperation, and escalating abuse by Ms. Nicholas; and the summary, initially unexplained, [then, later, explained by pretext], demotion and transfer of the Plaintiff from LDC, to new assignments, characterized by frequent, repeated, exposures to multiple, uncured, toxic, noxious, allergenic chemicals, as well as to alternating extremes of heat and cold, the Plaintiff within only four days of his new assignments, developed various neurological deficits, somatic anomalies, including frequent bouts of depression, anxiety, manic behavior, irritability; as well as numerous manifest physical syndromes, including persistent insomnia, nervous exhaustion, fatigue, disruption of the circadian sleep pattern, migraine-type headaches, nausea, vomiting, diarrhea, sweat, high temperature, sore throat, dehydration, incontinence, thirst, sinus problems, and persistent muscle pain. The multi-



plicity of ills and their tendency to persist and intensify over time, ultimately required medical consultation, physician-prescribed, psycho-tropic medications, and consequential, short-term loss of earnings capacity; which, in turn, resulted in the filing of a Workers' Compensation Claim with the Mass. Department of Industrial Accidents.

30) Throughout the morning on July 8, 1998, the Plaintiff made numerous phone calls to Defendant #2, Ms. Feeley at her Office in Boston. These calls were all intercepted by an assistant, who offered various excuses why the Defendant Ms. Feeley could not talk to the Plaintiff. She was ostensibly "on the phone", "in conference", "was away on break", "had gone to the ladies' room", "had left for lunch", etc. The stated purpose of these multiple phone calls was to report the Plaintiff's work-related illness, to obtain instructions on how to obtain medical consultation and assistance, and to request forms for the reporting of a perceived, industrial illness.

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31) It became apparent to the Plaintiff, after 2 days of non-answered phone calls to Defendant #2, Ms. Feeley, that his many attempts to report his work-related illness were being detrimentally boycotted by Ms. Feeley, who was in her Office on July 8<sup>th</sup> and 10<sup>th</sup> , according to the FSSC telephone receptionist or switchboard operator.

32) Accordingly, on or about July 10th, the Plaintiff made a telephone call to Defendant #1, Ms. Mahoney, Security Services Manager for LDC. He related to Ms. Mahoney that his purpose in contacting her was three-fold. First, to notify LDC that very serious and unaddressed personnel incidents, linked to his perceived debilitation, had taken place on LDC property. Secondly, to elicit Ms. Mahoney's good offices in causing Defendant #2, Ms. Feeley to cease her boycott of his prior telephone calls to report what he believed to be work-related illness, resulting directly from the month-long series of so-called

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"Barbara Nicholas Incidents" and their administrative aftermath. Thirdly, to request that all documents, surveillance videotapes, and e-mail files, stored within LDC computers, and bearing upon the so-called "Barbara Nicholas Incidents" should all be preserved by LDC, in the event that litigation between the Plaintiff and FSSC might become necessary to recover medical expenses and lost-wage damages.

33) A Workers' Compensation Claim was filed by the Plaintiff. The claim was subsequently denied and dismissed by the Massachusetts Department of Industrial Accidents. This denial and dismissal was appealed to the Massachusetts Appeals Court, where it is currently still under deliberation.

#### **ALLEGATIONS**

34) In the course of Discovery and Disclosure for the Worker's Compensation Claim, on December 24, 2001, the Plaintiff received from Attorney

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Richard Mandel, then the Attorney of Record for the Employer, a copy of an Internal Memo from Ms. Feeley. This Internal Memo was sent via e-mail, and is entitled ***Chronology of Lotus: K. Loughman Incident***. It was originally sent by Ms. Feeley to six FSSC Executives or Managers, namely: John McFadden, Mike Phillips, Erin Arroyo, Joe Crowley, Teresa Drisko, and Paul Caruso. A copy of this Internal Memo, originally dated July 13<sup>th</sup>, 1998, will be introduced into evidence at trial. In this Internal Memo, Ms. Feeley testifies and quotes that Ms. Mahoney, in their telephone chat of July 10th, 1998, referred to the ailing and injured Plaintiff as a **"lunatic"**.

35) The Plaintiff holds that he suffered both **defamation** and **slander per se** from the false and malicious statement of Maura Mahoney in her phone conversation with Maura Feeley on July 10, 1998, disparaging his emotional health, and/or intellectual capacity; and reflecting implicitly and negatively upon his capacity to carry out the

duties and responsibilities of a security guard.

36) The Plaintiff further holds that he suffered personal **defamation** and **libel per se**, when this utterly false and malicious slander of Maura Mahoney of LDC was then further and recklessly re-published, without regard to its truth or falsity, three days later, in an Internal Memo, sent by Defendant Maura Feeley of FSSC to six additional FSSC employees, thereby holding up the ailing Plaintiff to that contempt, ridicule, and opprobrium by FSSC Employees, which attaches to the conditions of mental illness and/or mental incompetence or deficiency, known as lunacy, a condition which normally and historically has involved the institutionalization of the "lunatic" for his own safety and/or that of the public.

37) The Plaintiff holds, and avers to the Court, that, since his discovery of these acts of **slander per se** and **libel per se**, as revealed to him on December 24, 2001, by Attorney of Record

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Richard Mandel, that he has suffered continuing emotional distress, anxiety, loss of self-esteem, humiliation, and embarrassment, all related to malicious damage and injury to his good name and reputation as a security service professional; first, by Defendant #1, Maura Mahoney, and then by Defendant #2, Maura Feeley.

#### **STATUTE OF LIMITATIONS**

The Plaintiff avers to the Court that this Civil Action is timely filed, and in accordance with applicable Statutes of Limitation. Massachusetts is a **Discovery State**, and the Statute of Limitations begins to run at that point when the Plaintiff **discovers** that he has suffered harm due to the actions of the Defendants. In this particular case, discovery occurred on December 24, 2001, when Plaintiff opened and read material sent to him by Opposing Counsel, Richard Mandel. The three-year Statute of Limitations for the commencement of this Civil Action will expire on December 24, 2004.

**DEMAND FOR RELIEF AND JUDGMENT**

WHEREFORE, The Plaintiff demands judgment against Defendant #1 Maura Mahoney and against Defendant #3, Lotus Development Corp., as joint tortfeasor, for general damages in the amount of \$50,000.00, **or as a jury shall determine to be just.**

The Plaintiff also demands judgment against Defendant #2, Maura Feeley and against Defendant #4, First Security Services Corporation, as joint tortfeasor, for general damages in the amount of \$100,000.00, **or as a jury shall determine to be just.**

The Plaintiff further demands compensation for measurable economic loss, resulting from the pretext-based termination of his employment by FSSC, on November 25, 1998, **as a jury shall determine to be just.**

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The Plaintiff also demands judgment against all Defendants, in proportionate shares, **or as a jury shall determine to be just**, for all fees and reasonable expenses.

**DEMAND FOR JURY TRIAL**

In accordance with the provisions of the Seventh Amendment to the U. S. Constitution; and in accordance with enabling Federal Rules of Civil Procedure, the Plaintiff hereby makes demand for trial of **all issues** in this Civil Action **by Jury**.

Respectfully submitted to this Honorable Court,  
(Signed under the pains and penalties of perjury)

A handwritten signature in cursive script, reading "Kevin P. Loughman". The signature is written in dark ink and is positioned above a horizontal line.

By and For Kevin P. Loughman, Plaintiff, Pro-Se

4 Marrigan Street, Arlington, MA, 02474  
Telephone: 781-641-2756

October 28, 2004